

Mail Stop Interference  
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Paper 1  
Filed: 18 February 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JOHN T. GRAY, RICHARD MULLIGAN,  
AND JENG SHIN LEE,  
Junior Party  
(U.S. Patent 6,958,226),

v.

ALAN JOHN KINGSMAN, KYRIACOS MITROPHANOUS,  
AND NARRY KIM,  
Senior Party  
(U.S. Application 10/351,938).

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Patent Interference No. 105,672 (MPT)  
(Technology Center 1600)

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DECLARATION - Bd.R. 203(b)<sup>1</sup>

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           Part A. Declaration of interference

2           An interference is declared (35 U.S.C. § 135(a)) between the above-  
3 identified parties. Details of the application(s), patent (if any), reissue application  
4 (if any), count(s) and claims designated as corresponding or as not corresponding  
5 to the count(s) appear in Parts E and F of this DECLARATION.

6           Part B. Judge managing the interference

7           Administrative Patent Judge Michael P. Tierney has been designated to  
8 manage the interference. Bd. R. 104(a).

9           Part C. Standing order

10          A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
11 DECLARATION. The STANDING ORDER applies to this interference.

12          Part D. Initial conference call

13          A telephone conference call to discuss the interference is set for 2:00 p.m. on  
14 April 9, 2009 (the Board will initiate the call).

15          No later than four business days prior to the conference call, each party shall  
16 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
17 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

18          A sample schedule for taking action during the motion phase appears as  
19 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the  
20 schedule prior to the conference call and to agree on dates for taking action. A

1 typical motion period lasts approximately eight (8) months. Counsel should be  
2 prepared to justify any request for a shorter or longer period.

3 Part E. Identification and order of the parties

4 Junior Party

5 Named inventors: JOHN T. GRAY, WEST ROXBURY, MA

6 RICHARD MULLIGAN, LINCOLN, MA

7 JENG SHIN LEE, LINCOLN, MA

8 Involved Patent: U.S. Patent 6,958,226, issued October 25, 2005, based on

9 U.S. Application 09/393,795, filed September 10, 1999

10 Title: Packaging Cells Comprising Codon-Optimized Gagpol

11 Sequences and Lacking Lentiviral Accessory Proteins

12 Assignee: The Children's Medical Center Corp.

1                   Senior Party

2           Named Inventors: ALAN JOHN KINGSMAN, OXFORD, UNITED

3                               KINGDOM

4                               KYRIACOS MITROPHANOUS, OXFORD, UNITED

5                               KINGDOM

6                               NARRY KIM, REPUBLIC OF KOREA

7           Involved Application:    10/351,938, filed January 27, 2003

8           Title:            Antiviral Vectors

9           Assignee:    Oxford Biomedica (UK) Limited

10           The senior party is assigned exhibit numbers 1001-1999. The junior party is  
11 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior  
12 party is responsible for initiating settlement discussions. SO ¶ 126.1.

1 Part F. Count and claims of the parties

2 Count 1

3 A packaging cell line according to Claim 1 of U.S. Patent No. 6,958,226.

4 The claims of the parties are:

5 Gray U.S. Patent 6,958,226: 1-22

6 Kingsman 10/351,938: 43, 46-51, 54-62, 65-71, 74-76, 80-83  
7 and 85-96

8 The claims of the parties which correspond to Count 1 are:

9 Gray, 6,958,226: 1-22

10 Kingsman 10/351,938: 43, 46-51, 54-62, 65-71, 74-76, 80-83  
11 and 85-96

12 The claims of the parties which do not correspond to Count 1, and therefore  
13 are not involved in the interference, are:

14 Gray, U.S. Patent 6,958,226: None

15 Kingsman, U.S. Application 10/351,938: None

16 The parties are accorded the following benefit for Count 1:

17 Kingsman is accorded benefit of the filing dates of the following  
18 applications:

1 (i) U.S. Application 09/552,950, filed April 20, 2000, now U.S. Patent  
2 No. 6,541,248, issued April 1, 2003.

3 (ii) PCT/GB99/00325, filed February 17, 1999;

4 (iii) UK 9803351.7, filed February 17, 1998.

5 Gray is accorded benefit of the filing dates of the following applications:

6 (i) U.S. Provisional Application 60/100,063, filed September 12, 1998;

7 (ii) U.S. Provisional Application 60/100,022, filed September 11, 1998.

1 Part G. Heading to be used on papers

2 The following heading must be used on all papers filed in this interference,  
3 see SO ¶ 106.1.1:  
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(Technology Center 1600)

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1 Part H. Order form for requesting file copies

2 When requesting copies of files, use of SO Form 4 will greatly expedite  
3 processing of the request. Please attach a copy of Parts E and F of this  
4 DECLARATION with a hand-drawn circle around the patents and applications for  
5 which a copy of a file wrapper is requested.

6  
7 /Michael P. Tierney/  
8 Administrative Patent Judge

9 Enc:

10 Copy of STANDING ORDER  
11 Form PTO-850  
12 Copy U.S. Patent 6,958,226  
13 Copy of claims of 10/351,938

14  
15 Revised 3 January 2006

16  
17  
18 cc (via overnight delivery):

19  
20 Attorney for Gray:

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